

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Anton Bogdanov

v.

Civil No. 22-cv-389-AJ

Warden, FCI Berlin

O R D E R

Petitioner Anton Bogdanov, while in the custody of the Federal Bureau of Prisons ("BOP"), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. No. 1) seeking application of time credits under the First Step Act, 18 U.S.C. § 3632 ("FSA"), and a finding that he is entitled to immediate release from prison. The parties appeared for a scheduled show cause hearing before the undersigned Magistrate Judge on January 20, 2023, at which Mr. Bogdanov represented himself,¹ and the respondent was represented by Assistant United States Attorney Heather Cherniske. Also appearing, for the BOP, was Attorney Stephanie Scannell-Vessella. The parties have consented to the jurisdiction of the Magistrate Judge in this case.

As stated on the record at the January 20, 2023 hearing,

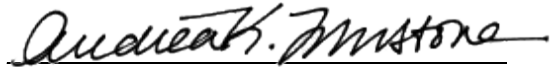
¹ The Court appointed Attorney Donald Kennedy for the limited purpose of advising Mr. Bogdanov with regard to whether to consent to the Magistrate Judge's jurisdiction.

and based on the materials before the Court, including those in the record of this case, and Respondent's Hearing Exhibit A-2, and for the reasons set forth in the January 13, 2023 Report and Recommendation issued in Komando v. FCI Berlin Warden, No. 22-cv-425-SE, 2023 WL 310580 (Jan. 13, 2023 D.N.H.), the Court finds that, upon application of Mr. Bogdanov's earned FSA time credits, as set forth in the Time Credit Assessment (Resp't's Ex. A-2) to the sentencing calculation attached to the respondent's motion for summary judgment (Doc. No. 7-3), Mr. Bogdanov is entitled to immediate release from BOP custody upon time served, as he has satisfied the incarcerative portion of his sentence in United States v. Bogdanov, No. 19-cr-197-MKB-1 (E.D.N.Y.). The Court notes that, at the hearing, the parties did not make additional legal arguments and relied instead on those in their filings, and that the respondent has waived an exhaustion defense in this case. The Court therefore orders that Mr. Bogdanov be immediately released from BOP custody to begin his term of supervised release in the Eastern District of New York.

It is the Court's understanding that, upon his release from BOP custody, U.S. Immigration and Customs Enforcement ("ICE") will take Mr. Bogdanov into its custody pursuant to an immigration detainer. The Court further understands that FCI

Berlin officials and/or the U.S. Marshals Service have already provided Mr. Bogdanov with his personal belongings. As to Mr. Bogdanov's medications, medical records, and instructions regarding his dietary restrictions, the Court requests that the respondent make inquiry in an effort to see that those items either have been included with his personal belongings, or that they otherwise accompany him into ICE custody.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Andrea K. Johnstone", written over a horizontal line.

Andrea K. Johnstone
United States Magistrate Judge

January 20, 2023

cc: Anton Bogdanov, pro se
Heather A. Cherniske, Esq.
Attorney Donald Kennedy, Esq.